IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SIXTEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 14384 of 2004

Between:

Burra Bondaiah, S/o Gouraiah,
R/o Bhoopalpally Village and Mandal, Warangal District

..... PETITIONER

AND

1 Mandal Revenue Officer, Bhoopalpalli, Warangal District
2 Revenue Divisional Officer, Mulug, Warangal District
3 District Collector, Warangal District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction more particularly one in the nature of Writ of Mandamus declaring that the order in Rc.No.F1/G/1214/04 dated 29-7-2004 issued by the collector, Warangal is highly arbitrary, bad and illegal.

Counsel for the Petitioner: MR.P.PRABHAKAR REDDY

Counsel for the Respondents: GP FOR REVENUE

The Court made the following:

ORDER:

The petitioner assails the letter dated 29.07.2004 of the third respondent addressed to the second respondent, whereby and whereunder, the second respondent was requested to take action to stop the construction of structure by Burra Chandraiah in Survey No.319, admeasuring Ac.2.25 guntas of Bhoopalapalli village. District Collector also requested the Revenue Divisional Officer (RDO) not to affect the possession of Burra Chandraiah as per the orders of this Court in W.P.M.P.No.19951 of 2003. The petitioner alleges that the land in Survey No.319 admeasuring Ac.1.25 guntas of Bhoopalapalli village was purchased by his father from Venkata Rajasimha Rao. After the death of the father, the petitioner and his four brothers Burra Rajaiah, Burra Komuraiah, Burra Chandraiah and Burra Venkata swamy are allegedly in joint possession of the land. The petitioner further alleges that in the Pahanis, the petitioner was shown as possessor of the land. Be that as it is, when the Mandal Revenue Officer prevented the petitioner from entering into the land, he filed a writ petition being W.P.No.19951 of 2003 questioning the Memo dated 26.08.2003 issued by Mandal Revenue Officer, the first respondent herein. This Court passed interim orders on 23.09.2003 in W.P.M.P.No.25013 of 2003. It is the further case of the petitioner that he also filed a suit being O.S.No.275 of 2004 on the file of the Court of the II Additional Senior Civil Judge, Warangal, against Renukuntla Komuraiah, when he tried to interfere with the possession and obtained an interim injunction in I.A.No.544 of 2004, dated 15.07.2004.

It appears Botla Bixapathy and four others made representations to the District Collector requesting to hand over possession of the land in Survey No.319 to them. The third respondent directed the second respondent to enquire into the matter and submit a report. It is the case of the petitioner that the RDO submitted a report, based on which the District Collector directed the RDO to stop construction activity by Burra Chandraiah and initiate action under Section 145 of Code of Criminal Procedure (Cr.P.C.). Contending that he is the absolute owner of the land that he is making the construction in the land and that without any reason the District Collector directed RDO to initiate action under Section 145 of Cr.P.C., the petitioner filed the writ petition.

A reading of the impugned letter of the District Collector to the RDO would reveal that there has been dispute regarding the ownership and possession of the land. The dispute is between the petitioner and his brothers on one hand and Botal Bixapathy and four others on the other hand. The land where the construction is going on is situated opposite to police station and according to the impugned letter, it is not clear which portion of the land belongs to which party and there is a need to survey the land. In view of this, the District Collector requested the RDO, who is the Special Divisional Executive Magistrate to initiate action under Section 145 of Cr.P.C. Further, as per the orders of this Court, the Collector also directed the RDO not to disturb the possession of Burra Chandraiah. Curiously, Burra Chandraiah does not challenge the letter of the Collector. The petitioner, who is brother of Burra Chandraiah, comes forward challenging the same. In the considered opinion of this Court, this writ petition is filed to prevent the RDO from taking action under Section 145 of Cr.P.C. and to prevent an authority to proceed in accordance with law. This Court also finds no infirmity in the letter addressed by the District Collector to initiate action under Section 145 of Cr.P.C. If the petitioner is aggrieved by any orders passed by the RDO under Section 145 of Cr.P.C., he can as well agitate his case before the RDO and if any order is passed against the petitioner, he can file a Criminal Revision Petition under Section 397 of Cr.P.C. Even before action is initiated, the petitioner cannot be permitted to challenge the proceedings under Section 145 of Cr.P.C.

The writ petition is misconceived and is accordingly dismissed.

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(V.V.S.RAO,J)

16.08.2004.

pln

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 Mandal Revenue Officer, Bhoopalapalli, Warangal District
2 Revenue Divisional Officer, Mulug, Warangal District
3 District Collector, Warangal District

4. 2 CCs to the Government Pleader for Revenue, High Court Buildings,

Hyderabad (OUT).

5. 2 CD copies.